

## Larceny

**Larceny is one of the most common crimes that is investigated in a military community.** The crime of larceny can range from one barracks theft by a soldier who needs money to safecracking by professional thieves. Larcenies make up a large part of a military investigator's work load. They are often hard to investigate, because they are not always discovered or reported soon after they occur. And often the victim is not able to accurately describe the items that have been taken. In spite of these problems, military investigators have had great success in solving larcenies.

Under the UCMJ the crime of larceny includes common law larceny, fraud, and embezzlement. Each of these forms of larceny have in common a wrongful acquisition of, or assumption or exercise of dominion over, the property of another. Each contains the element of intent of the accused to permanently deprive the owner of the property. See Part IV, paragraph 46, MCM.

Shoplifting and pilferage, for example, are common law larcenies. Fraud (False Pretenses) includes all the elements of larceny. But it also requires the property to be obtained by a designed misrepresentation of an existing fact or condition on which the victim relied. Embezzlement is also an act of larceny. But an embezzler lawfully receives the property of another through his position of trust and then, intentionally and unlawfully, keeps it. For example, if a bank teller gets money to pay customers, but keeps part of the money and alters records to cover up the loss, that teller is committing embezzlement.

To prove a larceny has been committed, you must show that the accused wrongfully took, obtained, or withheld from the possession of the true owner, or of any other

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person, the item in question. Generally, moving the property or having dominion over it with the intent to deprive the owner of the item without his consent meets this element of proof. Receiving, buying, or concealing stolen property or being an accessory after the fact are not included, however. It must also be shown that the property belonged to a known owner. And it must be shown that the accused took, obtained, or withheld the property either from the true owner or from someone who had greater right to possession than the accused. It must be shown that the property is of some value. The value of stolen property, other than items procured or issued from US government sources and listed by value in an official publication, is generally determined by its legitimate market value. It must be shown that the intent of the act was to permanently deprive or defraud another person of the use and benefit of the property. Or it must be shown that the intent was to permanently take the property for one's own use or the use of a person other than the true owner. These intents are collectively called an *intent to steal*. The existence of an intent to steal must, in most cases, be inferred or implied from the circumstances.

The lesser crime of wrongful appropriation has the same elements of proof as those for larceny, but there is a difference in intent. Here the intent is to temporarily, rather than to permanently, deprive the owner of the property.

## INVESTIGATIVE PROCEDURES

Before you go to the scene of a larceny, get all the facts you can. These may come from the complainant or the person receiving the complaint. Use the facts to make a preliminary plan. Check to see that you have the equipment you will need to process the crime scene.

When approaching the crime scene, be alert for persons leaving or loitering in the vicinity. The offender may still be in the area. On arriving at the scene, question the victim to get a detailed description of the stolen property. Try to obtain the description when and where there can be no "coaching" or chance to see the property. It helps if the owner or witnesses can point out peculiarities, modifications, or adjustments. This includes evidence of minor damage, and signs of unusual or abnormal wear, use, or abuse. If the stolen property is insured, get the amounts, policy numbers, names and addresses of insuring companies, and beneficiaries of the policy or policies. An insurance company may have obtained a detailed description of the property from the victim at the time the item was insured. Ask about serial numbers, make and type or model, size and color, damages, repair work, and personal marks such as initials and alterations. Ask from where the articles were stolen. Record the exact location and avoid generalizations. Learn if there were other valuables present that were not stolen.

Learn names and addresses of possible witnesses and persons who had access to the stolen property. Get a description of situations, conditions, incidents, or statements that may tend to cast suspicion on any persons. Ask what means, if any, were used to secure the stolen property. Ask about trace materials placed by the owner on items that are targets for theft. In repeated thefts, such as mess or barracks thefts, materials or objects may be marked to positively identify them at a later date. Think about the presence on stolen items of identifiable contaminants or materials from the scene of the offense.

If there is any doubt that the victim actually owned the alleged stolen property, do two things. First, learn the names and addresses of persons who can verify

ownership or possession of the items. Second, find out who can testify that prior to the offense the property was located as specified by the victim. Consider polygraph examination of the victim if the theft may not have occurred as alleged by the victim. False larceny complaints are often made to mask the negligent loss of borrowed personal or government property. They are also made to support false claims against the government.

Ask about the nature and location of documents that could help establish ownership, possession, and value of the stolen property. These documents could help identify the property when it is recovered. Check the list of personally owned, serial-numbered items kept in the unit orderly room.

The type of items taken may give a lead to the offender. If only toys were taken, the offender may be a child or a person who has children. To help identify the offender, consider if soldiers could keep or use the stolen amount of those articles in a barracks, a vehicle, or an off-post quarters. Consider how the stolen items could be changed, altered, or disguised to permit their resale, reregistration, or open use. Consider what materials, equipment, or facilities it would take to disguise the stolen articles.

Use every appropriate means to get a definitive description of the property, to locate it, and to associate the suspect with the offense. See if there are any photographs or sketches of items similar to the stolen items. Photographs could include items in the background or foreground of the place of the theft. Check on serial numbers, laundry and drycleaning marks, jewelers' marks, and monograms or other personalized markings. Learn of manufacturers' data, labels, and peculiarities of manufacture or design.

Make every effort to locate possible witnesses. Question them and have them verify, by document or statement, the victim's ownership or possession of the stolen property. Also ask them to verify the property's location before the theft. Inquire about the presence at the crime scene of anyone acting in a suspicious manner. If you know of persons who have committed or

been involved in a larceny, ask if they were present at the crime. This can be of value if the stolen property is of the same type as items taken in other cases with known suspects. Ask if a motor vehicle was present at or near the crime scene. If so, get a description of it. The vehicle may have been used by the offender, and learning who owns it may lead you to him. Often, though, an offender steals a vehicle to use at the crime scene and then transfers to another vehicle after leaving the scene.

Notify other law enforcement agencies. Give them a description of the stolen property and MO of the crime. Have the MP station enter the identifying data for serial numbered items in their National Crime Information Center (NCIC) computer terminal. This will allow other police agencies to trace the item back to you should they recover it during one of their investigative efforts. Check the local MO files. Make inquiries concerning any unusual activities at or near the crime scene. Check with informants for any relevant information. Check possible and likely places of disposition of stolen property. Check pawn shops, secondhand stores, known fences, locker facilities, and express offices. If stolen items are found in such places, try to get information about the person who left the items. Ask for a description and names, addresses, phone numbers, and the like.

Coordinate with the SJA office. A larceny complaint may be falsified to submit a claim against the government. The local SJA claims office should be queried to learn if a claim has been submitted. See if the details of the claim fit the information gained through investigation.

### EVALUATING EVIDENCE

Evidence gained through questioning persons or by other means must be thoroughly checked. Be aware that a *confession does not negate the need for evidence*. The elements of the confession must be supported by evidence. Investigative evidence, properly handled and evaluated, may place a suspect at the crime scene. This may be done by showing that the suspect or his vehicle was seen at the scene by a witness

or the victim. The person may have left fingerprints, palm prints, or footprints. Or the vehicle may have left identifiable tire tracks. Other ways to place the offender at the scene include matching soil or rock particles from the suspect's clothing or vehicle to particles fitting the type of soil or rock at the crime scene. And property, tools, or other materials at the scene may be traced to the offender.

Evidence may help find stolen items in the possession of a suspect or in a place under his control. But finding the item or evidence of the item in the possession or control of a suspect is not, by itself, enough to convict him of a theft. You must be able to show that the suspect knowingly, illegally deprived another of the possession of the item. In some cases, possession may be shown by finding proof that the property was present at an earlier time.

Evidence may show that a suspect profited by the offense or came into money in a way related to certain facts of the offense. This can be of value if the person cannot show how he got the funds or credits in a legitimate way. Such information may give leads to the identification of offenders or receivers for stolen goods.

### DEVELOPING SUSPECTS

Look for persons who had motive, means, and opportunity. The motive may be more than the desire to possess the stolen property. Spite, vandalism, or a special reason to deprive someone else of property may be factors. Sometimes stolen items suggest a false motive rather than the real one. An offender who fails to find items he was looking for may take other items he finds while searching the scene.

When fairly certain of the motive, try to find persons who most likely had such a motive and investigate their activities. Consider persons having easy access to the property. Persons with access to, or custody of, government property should be investigated when repeat offenses take place at the same location. Thorough checks into their backgrounds may show them to have motives. A check with local welfare agencies may show persons who recently sought aid in personal or family financial problems.

Consider those persons who recently repaid loans to the agency. Persons whose financial status gives a motive for crime may become suspects. But take care not to cast suspicion on persons simply because they have had a hardship. There must be related factors to lead to suspicion. And check on strangers or loiterers at the scene about the time the offense occurred. Offenders often masquerade as highly inquisitive or solicitous persons. Think about persons who have large gambling losses or excessive spending habits. And don't forget drug abusers.

If you feel it is needed, a suspect may be placed under surveillance. A surveillance may yield evidence incriminating the suspect or suggesting someone else as the real offender. If circumstances warrant, the premises of a suspect or suspects may be searched. Authority must be obtained prior to conducting the search. Only that property specified by law can be seized. If stolen property is found on the premises of a suspect, it may be prima facie evidence that he is related to the offense. This may involve a need to support or confirm the suspect's original statement as to his whereabouts when the offense took place.

Items that have been the target of larcenies may also be placed under surveillance to detect further larcenies. You may want to mark items subject to larceny to help make a positive identification of them when they are found in the possession of a suspect. This is useful for the investigation of barracks thefts. It is also useful for thefts of stock items by employees of post exchanges, commissaries, or storage facilities. Although currency is not often marked, serial numbers may be recorded to help in later identification of certain notes. Invisible powders to contaminate the skin or clothing of offenders may be used on property, including money. These powders are also useful at points of entry to containers or storage premises. Some

bulk items like gasoline, oil, and lubricants may be treated for identification by adding harmless ingredients. These can be detected when these items are recovered from suspects. With the help and advice of the crime lab, proper substances may be prepared. Commercially prepared additives or marking materials may be obtained from police supply manufacturers. Containers of edible items that do not lend themselves to treatment with additives may be marked.

Making a study of security measures and supply and accounting methods at places where offenses take place may help. Finding weaknesses in security or accounting procedures may give leads to the offender. They may help show the means used to commit and conceal the offenses and the means to remove, transport, and dispose of stolen items. The help of Army Audit Agency personnel or other financial experts should be requested to investigate accounting matters beyond your abilities.

Check money conversion activities. Overseas, attempts may be made to convert the proceeds from thefts of military payment certificates or foreign currency to US dollars or postal money orders. Liaison with offices where such transactions are made may show persons who have converted or transmitted funds in large amounts. It may also help find those who possessed local currency in unusual amounts. Such a check also may give the names or accounts in other countries to whom the offender is sending funds. This information in itself does not show theft, but it may give other leads when it is related to a suspect. Remember, however, that the persons involved may have a proper basis for possessing, converting and transmitting the sums in question. Your unwise handling of such information could damage the reputation of innocent persons. And it could also cause you to lose valuable sources of information.

## **FRAUDS AGAINST SOLDIERS**

Frauds against military personnel are many and varied. These larcenous acts cause more than just monetary losses to the government and individuals. Left

unchecked, these acts can destroy the morale of a command. The effects of these acts require that law enforcement personnel and commanders concentrate on prevention as

well as investigation. You may be called on to investigate these types of frauds only in overseas areas. But when conducting crime surveys in CONUS, be aware of and look for these activities. Investigative authority may not be the responsibility of the military. However, unscrupulous dealers may be brought to the attention of the Armed Forces Disciplinary Control Board for action. Some of these frauds include:

- False and unrealistic guarantees advertised by unethical merchants and salesmen.
- Sale of vehicles with a mechanical condition or appearance other than that represented or that carry hidden costs disguised as credit charges or handling fees.
- High interest rates, credit reference fees, insurance expenses, and other hidden charges disguised as legitimate costs by loan sharks, confidence artists, criminal

gamblers, carnival hucksters, and swindlers who pose as legitimate businessmen but use unscrupulous means to prey upon unsuspecting soldiers.

- Fraudulent offers of feminine companionship to set a soldier up for assault, robbery, blackmail, or other serious offenses.

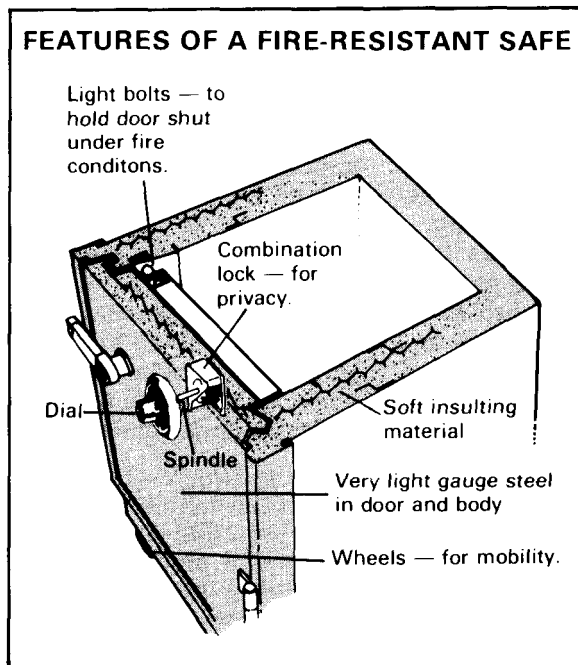
To help prevent frauds, personnel living in barracks should keep a list of the serial numbers of all their serial-numbered possessions. A copy should be turned into the orderly room. A program of marking valuable items permanently with an electrical inscriber should be used by unit commanders. This greatly aids investigations and, in the long run, acts as a deterrent to potential thieves. Certain serial-numbered items like weapons, vehicles, and electronic equipment should be entered in the NCIC computer.

## LARCENIES INVOLVING SAFES

In the military, the unlawful entering of a safe in a place other than a residence is a larcenous act. If a safe is involved in a larceny case, begin by determining the method used to open the safe.

The rip or peel method is mainly used on fire-resistant safes made of lightweight metal. A hole is drilled in one corner of the safe and a crowbar is used to peel back the door or rip open the side. The punch method is used to remove the safe's dial to expose the spindle. Then the spindle is punched inward using a center punch and mallet. The chopping method is used to knock the bottom of a safe in. It is a crude method, using an axe, chisel, sledge hammer, or like tool to obtain entry. In the sawing method, a high-speed power saw with a diamond or Carborundum blade is used to saw a corner hole in the safe. The burn or torch method, using an oxyacetylene cutting torch, is used to burn a hand-sized hole in the side of a safe. It may also be used to burn around the edge of the door to sever the bolts. The use of a thermal burning bar or thermite grenade is a variation of this method. In the explosive method, dynamite or plastic explosives are used to blow a hole in the lock or blow open

the door around the seams. Sometimes, if the safe is movable, the carry-away method is used. The criminal simply hauls away the safe and opens it later using one of the other methods.



The combination or manipulation method is rarely used. There are very few people skilled enough to open a safe by manipulating its combination. It takes an intimate knowledge of safe-locking devices and a highly developed ability to coordinate the senses of feel, hearing, and sight. If it appears that this method was used, your investigation is likely to show that the safe was left open or not secured properly. Or the combination may have been written on, in, or beneath the desk drawers near it.

After you have determined the method of entry, forward any samples of explosive residue and safe dust to the crime lab for comparison purposes. If you can, send the safe to the lab to be examined, too. If not, photograph and make casts or molds of tool marks to send to the lab. Lab examiners can check for explosive residue or safe dust. If a suspect is picked up soon after the offense, be

sure to send the suspect's clothing to the lab to have it examined.

Often, the "breaking" of a safe takes skills unique to certain persons. Question known safecrackers and check their alibis thoroughly. Investigation of the crime scene may lead to these persons as suspects in the case at hand. If civilian suspects are involved, help in interrogating known suspects may be gained from civilian police. Activities of organized groups of safecrackers are monitored by civilian police. Criminal information on known professional thieves is vital to solving safe-cracking cases. Such professionals may be helped by apprentices. Also, younger men hoping to reach professional status may try jobs a professional might not. Compare the MO used by known persons to the techniques used in a given case. This can greatly aid you in your investigation.

## LARCENIES OF MOTOR VEHICLES

Vehicle larcenies are not as common to Army posts as they are to the civilian community. They occur often enough, however, to warrant separate discussion. Vehicles may be stolen for joy rides or to be later stripped for parts. Sometimes vehicles are stolen to sell the vehicle for profit, but this is mostly done by professionals.

Many vehicle larcenies are wrongful appropriation under the UCMJ, since the intent is to temporarily deprive. These larcenies include theft for convenience and joy riding. For example, a soldier may wrongfully appropriate a jeep for transportation. These incidents are not done by professionals. Requiring personnel on post to remove their keys and to lock their parked, unattended vehicles can help prevent many such larcenies. This requirement can be enforced by military police patrols.

When you are investigating a vehicle theft, get a full description of the vehicle, including motor and body numbers. Get the time and date of the theft and the place where the vehicle was located when it was stolen. If the vehicle was personally owned, make certain the POV was not repossessed by a finance

company. If the stolen vehicle belongs to the government, notify the FBI. The FBI has primary jurisdiction in thefts of government property.

Learn who had access to the place where the vehicle was located at the time of the theft. Check to see if persons having access were involved in the theft. Find out if any missing personnel could have had a motive to steal the vehicle. All missing personnel should be checked to see if any one of them could have been involved in the theft. Contact municipal, county, and state law enforcement agencies for help in locating the vehicle and the offender. And provide information to these agencies and to the NCIC. Have MP look for discrepancies concerning license plates, like dirty places on clean cars or the reverse.

Consult the National Automobile Theft Bureau's Passenger Vehicle Identification Manual. It will help you check vehicle identification numbers against a specific vehicle. The manual lists automobile manufacturers and gives their system of assigning vehicle identification numbers to their products.

## LARCENIES OF COMMERCIAL GOODS

The larceny of merchandise or goods from a commercial activity is shoplifting. It is also known as "boosting." The FBI's Annual Uniform Crime Report indicates that the average value of goods taken by a shoplifter is \$25. Nationally, business losses range in the millions each year. To offset these losses, businesses increase the price on goods and the general public pays for these crimes.

Shoplifting is often the main vocation of professional shoplifters. Their motive is monetary. Professionals may work alone or in groups of two or three. Their targets are clothing, furs, jewelry, and other items that have a high resale value. Drug addicts also steal items having a high resale value to support their habit.

Casual offenders steal for several reasons. They may steal for personal need or opportunity or from their inability to resist temptation. Housewives and persons on meager incomes may steal clothing, food, and other small items. Often their children are used as decoys to distract an employee's attention. Sometimes a child may be used to carry the stolen goods. Youths often shoplift for the thrill or adventure involved. They steal nice-to-have items. Sometimes, having

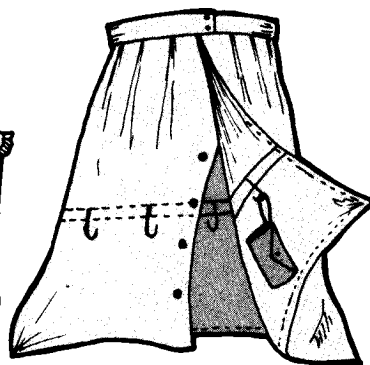
been given money by a parent to run errands, they steal the items for which they were sent so they can pocket the cash. When caught, they are usually sorry and ashamed, and they stop shoplifting. Some rare shoplifters are compulsive thieves. They suffer from an irresistible desire to steal for the sake of stealing. The items they steal often have a hidden meaning to the person. But compulsive shoplifters as a group make up less than one percent of the total number of shoplifters.

Shoplifters commonly use shopping bags, and altered clothes, to carry away items. They also use a means known as crotch carrying, and at times, outright openness. Shoplifters use fitting rooms and rest rooms to hide goods on their person or change prices on items they intend to steal. Shoplifters' clothes like heavy coats, baggy trousers, and loose-fitting skirts are often fitted with a series of hooks on which to hang items. Some shoplifters use booster boxes, packages that have sides that open. The inside of the box is hollow. The box is placed on a display counter while the shoplifter pretends to look over merchandise. Stolen items are slipped into the box; the side is closed; and the person leaves the store. Crotch carriers simply place

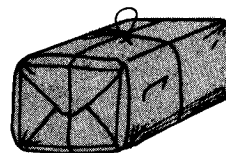
### SOME COMMON SHOPLIFTING METHODS



Shoplifters commonly use altered clothes—tiers of pockets in coats or loose



fitting skirts with hooks sewed to the inside linings can be used to hide merchandise.



Booster boxes



Hollow packages, having one end hinged to open to accept stolen items, are carried.



Shoplifters step into fitting rooms to hide merchandise in pocketbooks, or elsewhere on their person.

items between their legs to steal them. This method is very common in supermarkets and

grocery stores. Meat, cigarettes, and records are often stolen in this manner.

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